REMARKS

This application is amended in a manner believed to place it in condition for allowance at the time of the next Official Action.

Claim 34 is amended. Support for the amendment to claim 34 may be found generally throughout the specification, particularly in the examples.

Claim 41 is new. Support for claim 41 may be found, for example, at page 3, lines 3-8.

Claims 12-40 remain pending.

The Official Action rejected claim 14 under 35 USC §112, second paragraph, as allegedly being indefinite. This rejection is respectfully traversed.

The Official Action states that the term "essentially free" is unclear.

The present specification at pages 1 and 2 discloses fillers as possible texturizers to be used with the recited composition. As such, the recited composition is not limited to their use. However, it would be possible that these fillers may be present in the composition, without being intentionally added, as the term "fillers" includes mineral material.

Accordingly, applicants believe that the term "essentially free" is definite and applicants respectfully request that the rejection be withdrawn.

Claims 12-24 and 26-40 were rejected on the grounds of non-statutory obviousness-type double patenting as allegedly being unpatentable over claims 1, 2, 5, 6, 10-16, 22 and 23 of U.S. Patent No. 6,197,287 ("US '287"). This rejection is respectfully traversed.

US '287 claims an inverted latex composition and a cosmetic, dermal pharmaceutical or pharmaceutical composition comprising the inverted latex.

As admitted in the Official Action, US '287 does not claim a composition comprising a powder. US '287 also does not claim a texturizing composition.

The Official Action concludes that it would have been obvious to add a powder to the US '287 composition in order to provide texture in a final product, such as a soap. However, the Official Action does not establish *prima facie* obviousness.

The Official Action does not provide any evidence showing that it would be obvious to add about 10% to about 99% of at least one powder to the composition of US '287, nor does it explain how a texturizing composition is thus obtained.

Therefore, the proposed modification of US '287 cannot render obvious the present claims, and withdrawal of rejection is respectfully requested.

Claims 12-24 and 26-40 were rejected on the grounds of non-statutory obviousness-type double patenting as allegedly being unpatentable over claims 1-3, 15, 18, 20 and 22-24 of U.S.

Patent No. 6,673,861 ("US '861"). This rejection is respectfully traversed.

US '861 claims a composition and a cosmetic, dermocosmetic, dermopharmaceutical or pharmaceutical composition comprising the composition.

As admitted in the Official Action, US '861 does not claim a composition comprising a powder. US '861 also does not claim a texturizing composition.

The Official Action concludes that it would have been obvious to add a powder in order to provide texture in a final product, such as a soap. However, the Official Action fails to establish *prima facie* obviousness.

The Official Action does not provide any evidence showing that it would be obvious to add about 10% to about 99% of at least one powder to the composition of US '861, nor does it explain how a texturizing composition is thus obtained.

Therefore, the proposed modification of US '861 cannot render obvious the present claims, and withdrawal of rejection is respectfully requested.

Claims 12-24 and 26-40 were rejected on the grounds of non-statutory obviousness-type double patenting as allegedly being unpatentable over claims 1-3, 15, 18, 20 and 22-24 of U.S. Patent No. 7,033,600. (US '600). This rejection is respectfully traversed.

US '600 claims a cosmetic, dermopharmaceutical or pharmaceutical composition comprising an inverted latex.

As admitted in the Official Action, US '600 does not claim a composition comprising a powder. US '600 also does not claim a texturizing composition.

The Official Action concludes that it would have been obvious to add a powder in order to provide texture in a final product, such as a soap. However, the Official Action fails to establish *prima facie* obviousness.

The Official Action does not provide any evidence to show that it would be obvious to add about 10% to about 99% of at least one powder to the composition of US '600, nor does it explain how a texturizing composition is thus obtained.

Therefore, the proposed modification of US '600 cannot render obvious the present claims, and withdrawal of rejection is respectfully requested.

Claims 12-24 and 26-40 were provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1, 29-31 and 33-35 of copending Application No. 09/888,441 ("Appln. '441"). This rejection is respectfully traversed.

Appln. '441 claims a self-invertible inverse latex composition.

As admitted in the Official Action, Appln. '441 does not claim the self-invertible inverse latex composition comprises a powder, nor does Appln. '441 claim a texturizing composition.

The Official Action concludes that it would have been obvious to add a powder in order to provide texture in a final product, such as a soap. However, the Official Action fails to establish *prima facie* obviousness.

The Official Action fails to provide any evidence to support the conclusion that it would be obvious to form a final product, such as a soap, from the self-invertible inverse latex composition of Appln. '441. The Official Action further fails to provide evidence showing that it would be obvious to add powder to the self-invertible inverse latex composition so as to obtain a texturizing composition of about 10% to about 99% powder.

Therefore, the proposed modification of Appln. '441 cannot render obvious the present claims, and withdrawal of rejection is respectfully requested.

Claims 12-34 were provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 19-21, 27-41, 44, 47 and 49 of copending Application No. 10/459,082 ("Appln. '082"). This rejection is respectfully traversed.

Appln. '082 claims a composition, which may be employed in the cosmetic, dermopharmaceutical and/or pharmaceutical

industries, and may serve as a thickener and/or emulsifier in the paint industry.

As admitted in the Official Action, Appln. '082 does not claim a powder. Appln. '082 also does not claim a texturizing composition.

The Official Action concludes that it would have been obvious to add a powder to the composition in order to provide texture to a texturized paint. However, the Official Action fails to establish *prima facie* obviousness.

The Official Action fails to provide any evidence to show that it would be a powder to the composition in an amount of about 10% to about 99% of the composition. The Official Action also fails to provide evidence to support the conclusion that it would be obvious to add a powder to a paint to form a textured paint.

There is also no mention as to how the claimed composition of Appln. '082 relates to a texturizing composition.

Therefore, the proposed modification of Appln. '441 cannot render obvious the present claims, and withdrawal of rejection is respectfully requested.

Claims 12-14, 16, 17, 26-35, 39 and 40 were rejected under 35 USC §103(a) as being unpatentable over MIKOLAJEWICZ et al. EP 0 503 853 (MIKOLAJEWICZ). This rejection is respectfully traversed.

Independent claim 12 recites a composition comprising about 1% to about 90% of one self-invertible inverse latex and about 10% to about 99% of at least one powder, and the specific particle size of the powder is recited in dependent claims 29 and 30. Independent claim 34 recites a method for improving the texture of a cosmetic or pharmaceutical formulation comprising adding a self-invertible inverse latex and a powder simultaneously in an amount that is about 1% to about 90% self-invertible inverse latex and about 10% to about 99% powder. As disclosed, the self-invertible inverse latex assists in the dispersion of powders to improve the textural properties of powders in a composition, such as adhesion to the skin. See page 11, lines 8-25 and page 14, lines 3-13.

The Official Action admits that MIKOLAJEWICZ fails to disclose the recited composition. Indeed, only one example even approaches the claimed composition, having 1.50% inversion emulsion and 5.00% powder (page 8, Example 4). MIKOLAJEWICZ also fails to disclose or suggest a texturizing composition.

Nevertheless, the Official Action concludes that it would have been obvious to "optimize" the concentration of powder in the single example to achieve the desired results of the of the present composition, and selecting the particular particle size would have depended on whether a powdery feel or emulsion feel is desired.

The conclusion that it would have been obvious to optimize presupposes moving in the direction of the present invention. However, MIKOLAJEWICZ "optimizes" topical compositions by replacing powders with inverse emulsions. Indeed, MIKOLAJEWICZ desires a water soluble composition that is non-adhesive, contrary to the present invention (see page 2, lines 5-20, line 41 and lines 52-53).

Thus, MIKOLAJEWICZ teaches away from adding powders, and to "optimize" the amount or particle size powders to achieve a desired powdery feel or a texturizing composition would be contrary to the teachings of MIKOLAJEWICZ.

Therefore, MIKOLAJEWICZ alone cannot render obvious the claims, and withdrawal of the rejection is respectfully requested.

Applicants note that claim 25 was not rejected in the Official Action.

In view of the above, applicants believe that the present application is in condition for allowance at the time of the next Official Action. Allowance and passage to issue on that basis are respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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